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Defendants Eugene J. and Barbara Casaretto  
As Trustees of the Eugene and Barbara Casaretto Trust, and  
the Eugene J. and Barbara Casaretto Trust

**UNITED STATES DISTRICT COURT  
NORTHERN JURISDICTION OF CALIFORNIA**

ANDI MILLARD

Plaintiff,

vs.

CHINA CHEF RESTAURANT; ET AL.

Defendants.

Case No.: C07-04602 JCS

ANSWER TO COMPLAINT

Defendants Eugene J. and Barbara Casaretto Trustees of the Eugene J. and Barbara Casaretto Trust, and the Eugene J. and Barbara Casaretto Trust, (collectively "Casaretto Defendants", or as to the Trust itself "Casaretto Trust") hereby respond to the Complaint in above entitled matter, as follows:

1. As to paragraph one of the Complaint, Casaretto Defendants admit that plaintiff purports to describe the nature of the case, but on the basis of a lack of information and belief sufficient to admit or deny that plaintiff is a "qualified person" as alleged, denies the same, and denies the remaining allegations.

2. As to paragraph two of the Complaint, Casaretto Defendants admit that plaintiff has brought the action based upon the statutes alleged, but denies that there is any factual basis establishing any violation of the statutes alleged.

1           3.     As to paragraph three of the Complaint, Casaretto Defendants admit that the  
2 business is located in San Carlos, San Mateo County, California, admit that plaintiff claims that  
3 the alleged violations occurred at the location of the business, but denies that there is any factual  
4 basis for the allegations.  
5

6           4.     As to paragraph four of the Complaint, the alleged violations occurred, if at all, in  
7 San Carlos, San Mateo County, California.  
8

9           5.     As to paragraph five of the Complaint, Casaretto Defendants (i) lack sufficient  
10 information and belief so as to admit or deny whether plaintiff is a qualified person as alleged,  
11 and on that basis, deny the allegation; (ii) deny that the Casaretto Defendants own or operate the  
12 business as alleged; (iii) admit that the Casaretto Trust is an owner of the real property and as  
13 such is a lessor; and (iv) deny the remaining allegations.  
14

15           6.     As to paragraph six of the Complaint, Casaretto Defendants lack sufficient  
16 information and belief so as to admit or deny the allegations therein, and on that basis deny the  
17 allegations.  
18

19           7.     As to paragraph seven of the Complaint, Casaretto Defendants admit that the  
20 Casaretto Trust is an owner and lessor of the real property, and that John Tang is a lessee but  
21 deny the remaining allegations.  
22

23           8.     As to paragraph eight of the Complaint, Casaretto Defendants admit that the  
24 Casaretto Trust is an owner and lessor of the real property and that John Tang is a lessee, and  
25 based on lack of sufficient information and belief as to the remaining allegations, deny the same.  
26

27           9.     As to paragraph nine of the Complaint, Casaretto Defendants incorporate their  
28 responses to paragraphs one through eight.

1           10. As to paragraph ten of the Complaint, Casaretto Defendants lack sufficient  
2 information or belief to know whether plaintiff is a member of the public or disabled person  
3 whose rights are protected, and on that basis denies the allegations.  
4

5           11. As to paragraph 11 of the Complaint, Casaretto Defendants deny that any  
6 construction, alteration, repairs or additions were undertaken as referenced.

7           12. As to the allegations of paragraph 12 of the Complaint, Casaretto Defendants lack  
8 sufficient information or belief as to admit or deny the allegations and on that basis deny the  
9 allegations.  
10

11           13. As to the allegations of paragraph 12 of the Complaint, Casaretto Defendants lack  
12 sufficient information or belief as to admit or deny the allegations and on that basis deny the  
13 allegations.  
14

15           14. As to paragraph 14 of the Complaint, Casaretto Defendants deny that they were  
16 under any requirement to make the Restaurant accessible as alleged.

17           15. As to paragraph 15 of the Complaint, Casaretto Defendants deny that they have  
18 violated any law as alleged and further deny that the facilities need to be brought into any  
19 compliance.  
20

21           16. As to paragraph 16 of the Complaint, Casaretto Defendants deny that they have  
22 violated any law as alleged and deny that plaintiff is entitled to any damages.

23           17. As to paragraph 17 of the Complaint, Casaretto Defendants deny that they have  
24 violated any law as alleged and deny that plaintiff is entitled to any damages.

25           18. As to paragraph 18 of the Complaint, Casaretto Defendants deny the allegations.  
26

27           19. As to paragraph 19 of the Complaint, Casaretto Defendants deny the allegations.  
28

1           20. As to paragraph 20 of the Complaint, Casaretto Defendants deny that they have  
2 done any acts entitling plaintiff to an injunction, deny that they have wrongfully excluded  
3 plaintiff, and deny that plaintiff will in the future be wrongfully excluded.  
4

5           21. As to paragraph 21 of the Complaint, Casaretto Defendants deny that plaintiff has  
6 been damaged and deny that plaintiff is entitled to the relief requested, or any relief.

7           22. As to paragraph 22 of the Complaint, Casaretto Defendants neither admit nor  
8 deny the legal statements contained therein, but deny that they have violated any of the statutes  
9 referenced.  
10

11           23. As to paragraph 23 of the Complaint, Casaretto Defendants deny the allegations.

12           24. As to paragraph 24 of the Complaint, Casaretto Defendants deny that plaintiff has  
13 been damaged and deny that plaintiff is entitled to the relief requested or any relief.

14           25. As to paragraph 25 of the Complaint, Casaretto Defendants deny that plaintiff is  
15 entitled to the relief requested, or any relief.  
16

17           26. As to paragraph 26 of the Complaint, Casaretto Defendants incorporate their  
18 response to paragraphs one through 25.

19           27. As to paragraph 27 of the Complaint, Casaretto Defendants neither admit or deny  
20 the legal statements, but deny that they have violated the statutes referenced.  
21

22           28. As to paragraph 28 of the Complaint, Casaretto Defendants deny plaintiff has  
23 been damaged, and deny plaintiff is entitled to the relief requested or any relief.

24           29. As to paragraph 29 of the Complaint, Casaretto Defendants incorporate their  
25 response to paragraphs one through 28.  
26

27           30. As to paragraphs 30 through 38 of the Complaint, Casaretto Defendants neither  
28 admit nor deny the legal statements, but deny that they have violated any laws or regulations,

1 deny that they have wrongfully acted or failed to act, deny that they have failed to provide access  
 2 to plaintiff and/or others as required by law, deny that they have discriminated against plaintiff  
 3 and/or others, and deny plaintiff has been damaged, and deny that plaintiff is entitled to the relief  
 4 requested or any relief.  
 5

6 31. As to paragraphs 39 and 40 of the Complaint, and the Prayer, Casaretto  
 7 Defendants lack sufficient information or belief so as to admit or deny that plaintiff is a qualified  
 8 person as alleged and on that basis deny the same, and deny that they have committed any acts  
 9 entitling plaintiff to damages of any kind or nature, or the relief requested or any relief.  
 10

#### 11 Affirmative Defenses

12 1. The Complaint and every cause of action recited therein, fails to state a cause of  
 13 action against these answering defendants.

14 2. The Complaint and every cause of action recited therein, is or may be time barred  
 15 as to these answering defendants.  
 16

17 Wherefore, Casaretto Defendants pray:

- 18 1. Plaintiff take nothing by the Complaint;
- 19 2. The Complaint be dismissed;
- 20 3. For an award of attorneys fees and costs;
- 21 4. For such other and further relief as may be just and proper.  
 22

23 DATED: November 7, 2007

HARTNETT, SMITH & ASSOCIATES

24  
 25 By: 

26 James H. Hartnett, Attorneys for  
 27 Defendants Eugene J. and Barbara Casaretto  
 28 As Trustees of the Eugene and Barbara Casaretto  
 Trust and the Eugene J. and Barbara Casaretto Trust

1 DEMAND FOR JURY TRIAL

2 Defendants hereby demand a jury for all claims for which a jury is permitted.

3  
4  
5 DATED: November 7, 2007

HARTNETT, SMITH & ASSOCIATES

6  
7 By: 

8 James H. Hartnett, Attorneys for  
9 Defendants Eugene J. and Barbara Casaretto  
10 As Trustees of the Eugene and Barbara Casaretto  
11 Trust and the Eugene J. and Barbara Casaretto Trust  
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PROOF OF SERVICE

I, Michauxnee Olier, declare that I am employed in the County of San Mateo in the State of California. I am over the age of eighteen years and not a party to the within cause. My business address is 777 Marshall Street, Redwood City, California.

On November 7, 2007 I served the within: ANSWER on all interested parties in said cause, by delivering a true copy as follows:

XXXX (By Mail) I placed a true copy thereof enclosed in a sealed envelope with first-class postage thereon fully prepaid. I deposited said envelope in the United States mail at Redwood City, California. Each envelope was addressed as follows:

Paul L. Rein  
Law Offices of Paul L. Rein  
200 Lakeside Drive, Ste. A  
Oakland, CA 94612

Manuel Rivas, Jr. Esq.  
Friedland, Rivas & Associates  
225 Bush Street, 16<sup>th</sup> Floor  
San Francisco, CA 94104

PROOF OF SERVICE

I, Michauxnee Olier, declare that I am employed in the County of San Mateo in the State of California. I am over the age of eighteen years and not a party to the within cause. My business address is 777 Marshall Street, Redwood City, California.

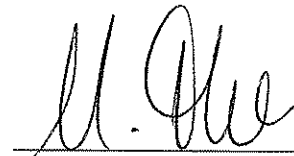
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Friedland, Rivas & Associates  
225 Bush Street, 16<sup>th</sup> Floor  
San Francisco, CA 94104

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this declaration was executed on November 7, 2007 at Redwood City, California.

  
Michauxnee Olier